

Message Text

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72

ORIGIN EB-07

INFO OCT-01 ARA-10 ISO-00 L-02 CAB-05 CIAE-00 COME-00

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APPROVED BY EB/OA:MHSTYLES

ARA/EP - MR. CORRBY

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FM SECSTATE WASHDC

TO AMEMBASSY LIMA IMMEDIATE

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E.O. 11652: N/A

TAGS: EAIR, PE

SUBJECT: U.S.-PERU CIVAIR DISPUTE

REF : STATE 55582

1. CAB ON MARCH 12 DENIED AEROPERU'S REQUEST FOR 30 DAY
EXTENSION BEYOND MARCH 17 FOR FILING OF RESPONSES TO
SHOW CAUSE ORDER.

2. SUBSTANTIVE PORTIONS ORDER ARE AS FOLLOWS:

QUOTE: BY LETTER DATED MARCH 10, 1975, AEROPERU REQUESTS
AN EXTENSION OF THE TIME FOR FILING ITS OPPOSITION TO
FINALIZATION OF THE ORDER TO SHOW CAUSE, FROM MARCH 17
TO APRIL 17, 1975. IN SUPPORT OF ITS REQUEST, AEROPERU
ASSERTS THAT THE 20-DAY PERIOD FOR RESPONSE TO A
THREATENED REVOCATION IS TOO SHORT; IS SHORTER THAN THE
39 DAYS PROVIDED FOR IN SUBPART M AND N PROCEEDINGS
UNDER THE BOARD'S ECONOMIC REGULATIONS (RELATING TO
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SHORTENED PROCEDURES FOR MODIFICATION OF U.S. CARRIER

ROUTE AUTHORITY), AND THE ROUTINE 30-DAY PERIOD GRANTED IN ROUTE REALIGNMENT ORDERS; THAT THE TASK OF DEVELOPING A RESPONSE IS COMPLICATED BY THE LOCATION OF THE HEADQUARTERS OF THE AIRLINE IN A FOREIGN COUNTRY; AND

THAT THE ATTORNEY IS ENGAGED IN CURRENT LITIGATION BEFORE THE ENVIRONMENTAL PROTECTION AGENCY.

UPON CONSIDERATION OF THE REQUEST OF AEROPERU, THE BOARD FINDS THAT THE MOTION FOR EXTENSION OF TIME SHOULD BE DENIED, AND THAT AEROPERU SHOULD BE REQUIRED TO FILE ITS RESPONSE TO THE ORDER ON OR BEFORE MARCH 17, 1975. THE RESTRICTIONS WHICH THE PERUVIAN GOVERNMENT HAS UNILATERALLY IMPOSED UPON THE U.S.-DESIGNATED CARRIER TO PERU UNDER THE U.S.-PERU AIR TRANSPORT SERVICES AGREEMENT, WHICH BECAME EFFECTIVE ON FEBRUARY 1, 1975, HAVE SEVERELY THREATENED THE ECONOMIC VIABILITY OF THE U.S. CARRIERS' OPERATIONS TO AND THROUGH PERU. DEPITE THE STRONG REPRESENTATIONS BY THE UNITED STATES GOVERNMENT THE PERUVIAN GOVERNMENT HAS FAILED TO RESTORE THE RIGHTS WITHDRAWN FROM BRANIFF AIRWAYS. UNDER THESE CIRCUMSTANCES, IT IS CLEAR THAT EFFECTIVE AND IMMEDIATE

EXPEDITED ACTION IS REQUIRED TO INSURE THAT THE RIGHTS OF THE U.S.-DESIGNATED CARRIER TO MAINTAIN A FAIR AND EQUITABLE OPPORTUNITY TO CONDUCT THE OPERATIONS

PROVIDED FOR UNDER THE U.S.-PERU AIR TRANSPORT SERVICES AGREEMENT WILL BE RESTORED. MOREOVER, CONSIDERING THESE CIRCUMSTANCES, WE CANNOT CONCLUDE THAT A 20-DAY PERIOD IS UNDULY SHORT FOR SUBMISSION OF THE REQUIRED DETAILED STATEMENT RESPONDING TO THE PERUVIAN ACTION, PARTICULARLY IN VIEW OF THE FACT THAT, IN LIGHT OF THE U.S. GOVERNMENT REPRESENTATIONS MADE IN THE NEGOTIATIONS, THE BOARD'S ACTION COULD NOT HAVE BEEN UNANTICIPATED BY THE GOVERNMENT OF PERU. OBVIOUSLY, THE REMEDY FOR PERU, IN THE EVENT IT FEELS THAT THE TIME PERIOD SPECIFIED IN THE BOARD'S ORDER TO SHOW CAUSE IS TOO SHORT, IS TO RESTORE THE RIGHTS WITHDRAWN FROM

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BRANIFF PENDING FURTHER NEGOTIATIONS IN AN ATTEMPT TO FIND AN INTERGOVERNMENTAL RESOLUTION TO THE PROBLEMS OUTSTANDING BETWEEN THE TWO COUNTRIES. UNQUOTE. INGERSOLL

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